

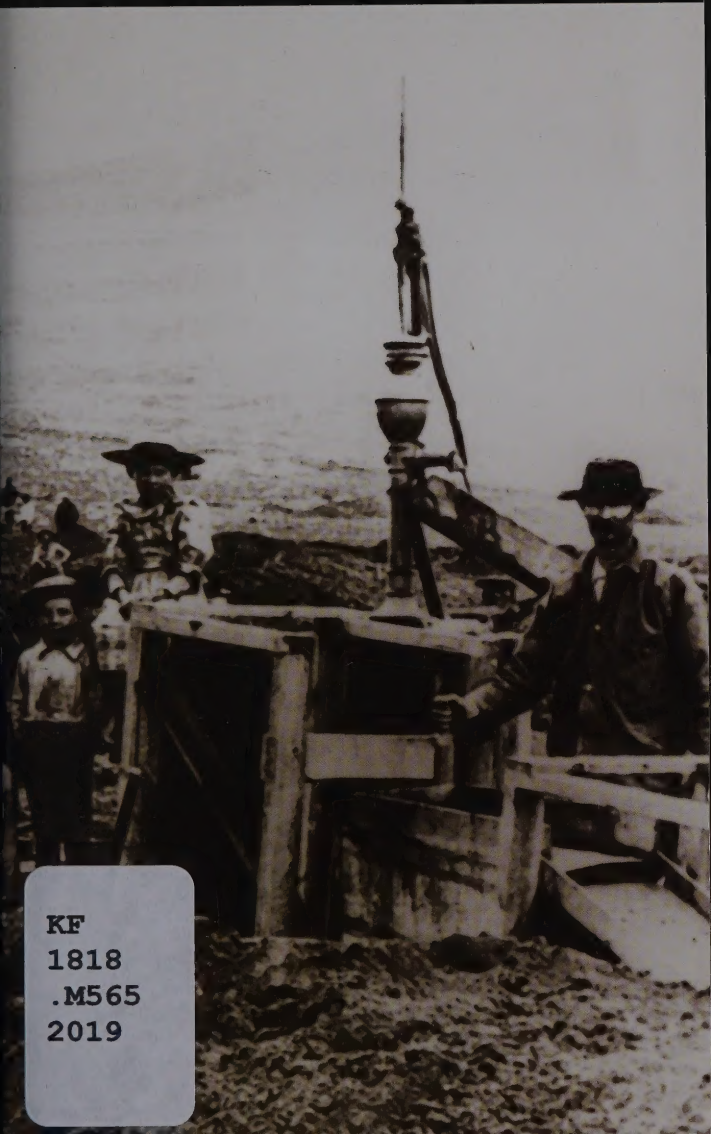
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Mining Claims and Sites on Federal Lands



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Foreword

The Bureau of Land Management (BLM) manages about 245 million acres of public land, primarily located in 12 western states, including Alaska. The BLM also administers about 700 million acres of subsurface mineral estate throughout the nation. The BLM's multiple-use mission is to sustain the health, diversity, and productivity of the public lands for the use and enjoyment of present and future generations. The BLM accomplishes this mission by managing activities, such as outdoor recreation, livestock grazing, mineral development, and energy production, and by conserving natural, cultural, and other resources on public lands.

The Federal Land Policy and Management Act (FLPMA) of 1976 provides that the public lands remain under the stewardship of the Federal Government, unless disposal is in the national interest and consistent with publicly approved land use plans, and that their resources be managed under a multiple-use concept that will best meet the present and future needs of the American people. Since mining is one of the multiple uses of BLM public lands, this pamphlet provides information on activities that fall under the Mining Law of 1872, as amended.

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Introduction

The three basic types of minerals on federal lands include:

1. Locatable minerals (subject to the Mining Law of 1872, as amended)
2. Leasable minerals (subject to the various Mineral Leasing Acts)
3. Salable minerals (subject to mineral materials disposed of under the Materials Act of 1947, as amended)



Federal laws, regulations, and legal decisions have defined these minerals. This pamphlet only focuses on locatable minerals.

The Mining Law of 1872, as amended (30 U.S.C. §§ 22-54 and §§ 611-615) allows citizens of the United States the opportunity to explore for, discover, develop, and purchase certain valuable mineral deposits on those federal lands that are open for mining claim location and patent (“open to mineral entry”). The law sets general standards and guidelines for claiming the possessory right to a valuable mineral deposit discovered during exploration, as well as establishing the right to develop and extract the mineral deposit. These “locatable” mineral deposits include most metallic mineral deposits and certain nonmetallic and industrial minerals. Mining claims located or perfected after the enactment of the Surface Resources Act on July 23, 1955 (30 U.S.C. § 612) are subject to use for certain purposes by the United States or its permittees or licensees, provided that such use does not materially interfere with mining or processing operations. All mining claims must comply with all applicable laws and regulations, such as the BLM’s surface management regulations at 43 CFR 3809. These regulations were issued pursuant to Section 302(b) of the Federal Land Policy and Management Act (FLPMA), 43 U.S.C. § 1732(b), which specifically amended the Mining Law.

The Mining Law allows for the enactment of state laws governing location and recording of mining claims and sites that are consistent with federal law. The federal regulations implementing the Mining Law are found at Title 43 of the Code of Federal Regulations (CFR) in Group 3700 and Part 3800.

The five elements of the Mining Law of 1872, as amended, are described in this pamphlet:

1. Discovery of a valuable mineral deposit
2. Location of mining claims and sites
3. Recordation of mining claims and sites
4. Annual maintenance (annual assessment work or annual fees) for mining claims and sites
5. Mineral patents

This pamphlet also provides a brief introduction of the BLM Mining Law Administration Program's responsibilities on federal lands administered by the BLM. The program involves mining claim recordation, annual maintenance (annual assessment work or annual fees), mineral patents, and surface management. The last section provides additional sources for more information on the following topics:

- Geology and mineral resources of a particular area
- Surface management regulations
- Other federal and state legal requirements

Explanation of “Discovery”

Locatable Minerals

The Mining Law of 1872, as amended, opened the public lands of the United States to mineral acquisition by location and maintenance of mining claims. Mineral deposits subject to acquisition in this manner are generally referred to as “locatable minerals.” Locatable minerals include both metallic mineral deposits (e.g., precious, base, nonferrous, and light metals) and nonmetallic mineral deposits (e.g., industrial minerals, gemstones, and uncommon varieties of stone).



In 1873, the U.S. Department of the Interior (DOI) began defining locatable minerals as those minerals that are recognized as a mineral by the standard experts, are not subject to disposal under some other law, and make the land more valuable for mining purposes than for agriculture. It is difficult to list all locatable minerals because of the complex legal requirements for discovery. For example, when minerals that are typically locatable are found on lands acquired (purchased or received) under the Mineral Leasing Act for Acquired Lands of 1947, as amended, by the United States or found on American Indian reservations, they are subject to lease only (43 CFR 3500). Therefore, it is easier for the BLM to list the minerals that are not locatable.

Since July 23, 1955, common varieties of sand, gravel, stone, pumice, pumicite, and cinders were removed from the Mining Law and placed under the Materials Act of 1947, as amended. Use of salable minerals requires either a sales contract or a free-use permit. Disposal of salable minerals from BLM-administered lands are regulated by 43 CFR 3600.

Uncommon varieties of salable-type minerals may be locatable if the deposits meet certain tests created

by various judicial and administrative decisions. See *McClarty v. Secretary of the Interior*, 408 F. 2d 907 (9th Cir. 1969). Federally certified mineral examiners determine uncommon variety on a case-by-case basis. (See 43 CFR 3830, Subpart C, for further information concerning the locatability of minerals.)

Since 1920, the Federal Government has leased fuels and certain other minerals (43 CFR 3000-3590). Today, minerals that are subject to lease include oil and gas, oil shale, geothermal resources, potash, sodium, native asphalt, solid and semisolid bitumen, bituminous rock, phosphate, and coal. In Louisiana and New Mexico, sulphur is also subject to lease.

Discovery of a Valuable Mineral Deposit

Federal statute does not describe what constitutes a valuable mineral deposit. Therefore, the government has adopted the "prudent man rule." This rule determines value based on whether or not a person will consider investing time and money to develop a potentially viable mineral deposit. This rule was first stated by the DOI in 1894, in the adjudication of *Castle v. Womble*, 19 L.D. 455 (1894), the holding of which states:

"...where minerals have been found and the evidence is of such a character that a person of ordinary prudence would be justified in the further expenditure of his labor and means, with a reasonable prospect of success, in developing a valuable mine, the requirements of the statute have been met."

The U.S. Supreme Court approved this definition in *Chrisman v. Miller*, 197 U.S. 313 (1905).

The Solicitor of the Department of the Interior issued an opinion (M-36642) in 1962 on the issue of widespread nonmetallic minerals with questionable marketability. The Solicitor noted a need for a distinct showing that the mineral could be mined, removed, and marketed at a profit. In 1968, the U.S. Supreme

Court approved the opinion in *U.S. v. Coleman*, 390 U.S. 602-603 (1968). The marketability test is supplemental to the prudent man rule and considers deposit economics and market entry. The claimant is required to show a reasonable prospect of making a profit from the sale of minerals from a claim or a group of contiguous claims.

DOI decisions require a discovery on each claim based on an actual physical exposure of the mineral deposit within the claim boundaries. The DOI's holding in *Jefferson-Montana Copper Mines Co.*, 41 L.D. 321 (1912), established the full test for a lode claim:

"To constitute a valid discovery upon a lode claim, three elements are necessary:

1. There must be a vein or lode of quartz or other rock-in-place
2. The quartz or other rock-in-place must carry gold or some other valuable mineral deposit
3. The two preceding elements, when taken together, must be such that as to warrant a prudent man in the expenditure of his time and money in the effort to develop a valuable mine."

For traditional placer claims, in addition to proof of a discovery, each 10 acres must be shown to be mineral-in-character (there is a reasonable expectation of further economic mineral under these lands).

Mineral-in-character may be based on geologic inference from adjoining lands and a reasonable opportunity for profitable extraction. An actual exposure of the valuable mineral deposit is not necessary. Mineral-in-character may be used to show the potential extent of the valuable mineral deposit on the claim(s) but cannot be used alone for such purposes.

Under the holding in *Schlosser v. Pierce*, 93 I.D. 211 (1986), contiguous mining claims on the same mineral

deposit may be grouped together into a logical mining unit and evaluated as an economic unit. Each claim must still contain a physical exposure of the ore-bearing mineral deposit whose value meets or exceeds the cutoff grade for the mining of the mineral deposit as a whole.

Explanation of “Location”

Mining Claims and Sites

A person who is a citizen of the United States or who has declared an intention to become a citizen with the U.S. Citizenship and Immigration Services may locate and hold a mining claim or site. A corporation organized under state law is considered a citizen and may locate and hold a mining claim or site. A corporation is held to the same standards as a citizen. There is no limit to the number of claims and sites that one may hold as a qualified claimant, as long as the requirements of the Mining Law have been met.

A mining claim is a selected parcel of federal land, valuable due to a specific mineral deposit or deposits, for which one has asserted a right of possession under the Mining Law. Rights are restricted to the development and extraction of a mineral deposit. The rights granted by a mining claim protect against a challenge by the United States and other claimants only after the discovery of a valuable mineral deposit. The two types of mining claims are lode and placer. In addition, mill sites and tunnel sites may be located to provide support facilities for lode and placer mining claims (43 CFR 3832). Mining claims may only be located in areas open to mineral entry. It is the locator's responsibility to make this determination by reviewing all available and relevant land records.

Lode claims cover veins or lodes with well-defined boundaries that include other rock-in-place bearing valuable mineral deposits. Examples include quartz or other veins bearing gold or other metallic mineral deposits and large volume (but low grade) disseminated metallic deposits, such as Carlin-type gold deposits and copper-bearing granites.



Lode claims are usually located as parallelograms with the side lines parallel to the vein or lode (see Figure 1). The land is described by a metes and bounds survey (giving the length and compass bearing of each boundary line from a central point or monument to each corner post, and then sequentially around the perimeter of the claim). Federal statute limits a lode claim to a maximum of 1,500 feet in length along the vein or lode. The width is a maximum of 600 feet (300 feet on either side of the center line of the vein or lode). The end lines of the lode claim must be parallel to qualify for underground extralateral rights. Extralateral rights involve the rights to minerals in vein or lode form that extend at depth outside the vertical boundaries of the claim (43 CFR 3832, Subpart B).

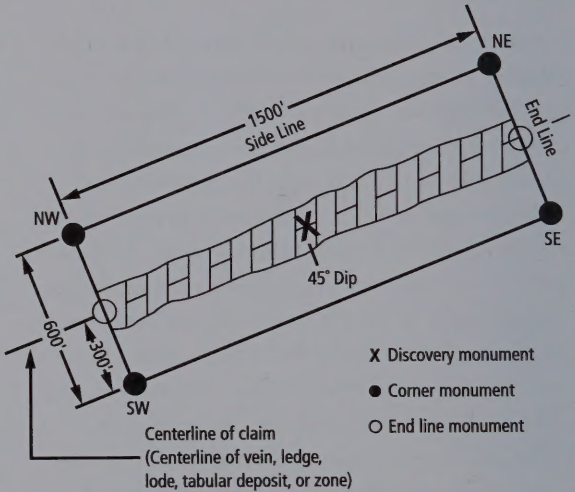


Figure 1. Drawing of an ideal lode mining claim (metes and bounds survey method).

Placer claims cover all those deposits not subject to lode claims. Placer is a surface mineral deposit formed by the concentration of small particles or heavy minerals. Originally, placer claims included only deposits of mineral-bearing sand and gravel containing free gold or other detrital minerals. By congressional

acts and judicial interpretations, many nonmetallic bedded or layered deposits, such as gypsum and high-calcium limestone, are located as placer claims.

Where possible, placer claims are to be located by legal subdivision, such as the E1/2 NE1/4 NE1/4, Section 20, Township 10 South, Range 21 East, Mount Diablo Meridian (30 U.S.C. § 35 and 43 CFR 3832, Subparts A and B). An individual may claim a placer claim with a maximum size of 20 acres (see Figure 2). An association of two locators may locate 40 acres, and three may locate 60 acres, etc. The maximum area of an association placer claim permitted by law is 160 acres for eight or more persons.

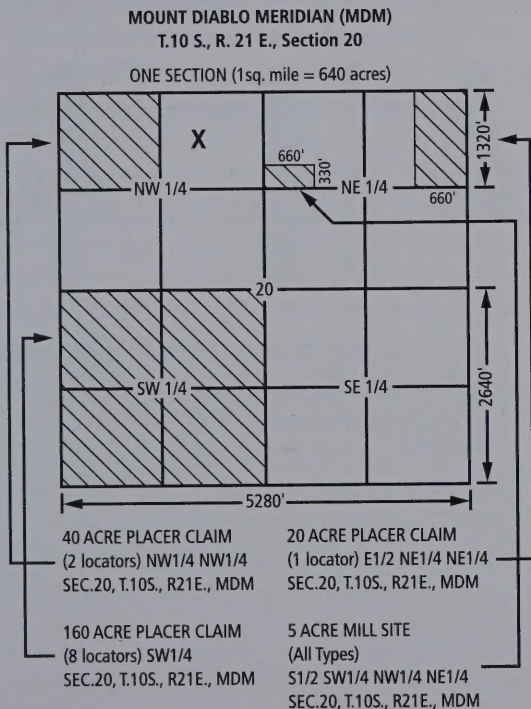


Figure 2. Drawing of a section of land showing different sizes of placer mining claims and a mill site. The legal description method is based on the Public Land Survey System.

The maximum size of a placer claim for a corporation is 20 acres per claim. Corporations may not locate association placer claims unless they are in association with other private individuals or other corporations as co-locators (43 CFR 3832, Subpart B).

Most state laws require conspicuous and substantial monuments for all types of claims and sites (see Figure 3). Please note that each state may have other requirements for monuments. Due to wildlife fatalities, the BLM does not allow the use of perforated or uncapped pipes as monuments, corner posts, or side line posts. All monuments should be wildlife safe. Be sure to consult state law to verify which wildlife-safe markers are allowable where your mining claim or site is located.

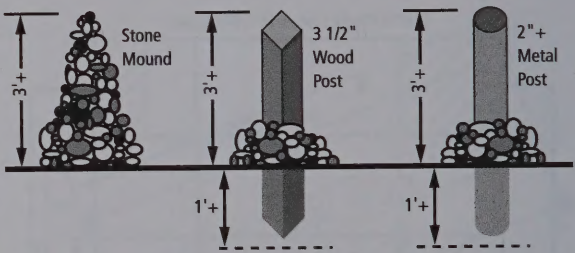


Figure 3. Example of methods of monumenting mining claims. State laws may vary.

Mill sites must be located on nonmineral land and must be noncontiguous to the lode or placer with which it is associated. The mill site may be located in the same manner as a lode or a placer mining claim. Its purpose is to either:

- Support a lode or placer claim mining operation; or
- Support itself independent of any particular claim by custom milling or reduction of ores from one or more mines.

A mill site must either include a mill for grinding, crushing, flotation, or chemical processing of ores or a

reduction works for chemical processing of ores, siting of furnaces, and related facilities. Related facilities may include those needed to reasonably support a mining operation, including tailing impoundments, waste dumps, and leach pads. Mill sites are described either by metes and bounds surveys or by legal subdivision. The maximum size of a mill site is 5 acres (see Figure 2). A claimant may hold as many mill sites as necessary for the support of the mining operation (43 CFR 3832, Subpart C).

Tunnel sites are tunnels excavated to develop a vein or lode. They are also used for the discovery of unknown veins or lodes. To locate a tunnel site, place two stakes up to 3,000 feet apart on the surface axis of the proposed tunnel. The compass bearing and distance of the tunnel must be posted at the entrance to the tunnel. Tunnel sites must be recorded in the same manner as lode claims. Some states require additional center line stakes (e.g., in Nevada, center line stakes must be placed at 300-foot intervals).

Lode claims must be located over any or all blind (not known to exist at the surface) veins or lodes discovered by the tunnel in order to maintain possession of the lodes or veins. The maximum distance these lode claims may cover is 1,500 feet on either side of the center line of the tunnel. This, in essence, gives the right to prospect underground an area 3,000 feet wide and 3,000 feet long. Any mining claim located for a blind lode discovered while driving a tunnel will have the same location date as the date of the location of the tunnel site (43 CFR 3832, Subpart D).

Federal Lands Open to Mining

Mining claims or sites may be located in 19 states, including Alabama, Alaska, Arizona, Arkansas, California, Colorado, Florida, Idaho, Mississippi, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming. The BLM manages the surface of public lands in these states, and the U.S. Forest

Service (USFS) manages the surface of National Forest System lands. The BLM is responsible for the subsurface minerals on both its public lands and National Forest System lands.

Mining claims and sites may be prospected and located on lands open to mineral entry. Claims may not be located in areas closed to mineral entry. Subject to valid existing rights, these areas are withdrawn from further location of mining claims or sites.

Areas withdrawn from mineral entry include national parks, national monuments, American Indian reservations, most Bureau of Reclamation projects, military reservations, scientific testing areas, most wildlife protection areas (such as national wildlife refuges), lands withdrawn pursuant to FLPMA (Section 204), and lands withdrawn from mineral entry for other reasons. Lands withdrawn for power development are subject to mining location and entry only under certain conditions.

Mining claims may not be located on lands that have been:

- Designated by Congress as part of the National Wilderness Preservation System
- Designated as a wild portion of a wild and scenic river
- Withdrawn by Congress for study as a wild and scenic river

There is usually a 1/4-mile buffer zone withdrawn from location of mining claims or sites from either side of a river while the river is being studied for inclusion in the National Wild and Scenic Rivers System. Additions to the National Wilderness Preservation System are withdrawn to mining claim and site location at the time of designation by Congress. Mining activities are permitted only on those mining claims from which proof can be shown that a discovery was made before the date of designation as wilderness

by Congress. Lands patented under the Stock Raising Homestead Act of 1916, as amended, are open to location but may be entered, and mining claims located only under special procedures (43 CFR 3838) may be entered.

Staking a Mining Claim or Site

Federal law simply specifies that claim and site boundaries must be distinctly and clearly marked to be readily identifiable on the ground (43 CFR 3832). The Mining Law allows states to establish additional laws regarding the manner in which mining claims and sites are located and recorded. State location requirements may include placement, size, and acceptable materials for a corner post or a discovery monument. Check with the proper state agency before locating mining claims. State agencies may include the state's geological survey, mineral resource department, lands commission, or department of environmental protection.

Generally, staking a mining claim requires:

- Erecting corner posts or monuments (see Figure 3)
- Posting a notice of location on a post or monument in a conspicuous place—usually the point of discovery (see Figures 1 and 2)
- Complying with federal requirements at 43 CFR 3830, 3832, and 3833

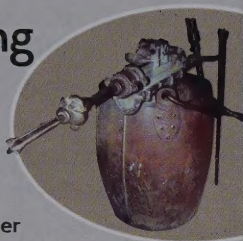
The conspicuous place on the mining claim is usually the point of discovery. The discovery point must be tied to some well-known, permanent object. Examples of permanent objects include an existing cadastral survey monument, a benchmark, a bridge, the fork of a stream, or a road intersection. Several states also require side line or end line posts or monuments for claims. Mining claims and sites described by legal subdivision in some states do not require the erection of corner monuments (see Figure 2). However, all mining claims and sites must have a location or

discovery monument. Be sure to check what the law requires in the state where the mining claims and sites are to be located.

For a specific tract of land, check the official land records at the BLM state or field office responsible for administering the land area. Rather than looking randomly through the records for lands open to location, it is better to restrict your search to a specific area of interest. Topographic maps of the area (published by the U.S. Geological Survey) provide the legal description (meridian, township, range, section) of such lands. Visit the local BLM state or field office, and check maps, BLM master title plats, mining claim records, and files. Ultimately, it is the claimant's responsibility to determine if there are prior existing mining claims on the ground and if the land is open to mineral location.

Recording a Mining Claim or Site

As established by Section 314 of FLPMA, as amended, claims and sites must be recorded with the proper BLM state office within 90 days of the date of location and recorded with the proper county in accordance with their requirements. In Alaska, claims and sites can also be recorded with the BLM district office located in Fairbanks.



County: State laws require filing the original location notice or certificate in the county recorder's office, county clerk's office, or borough office. The proper county or borough is the one in which the claim or site is located. Each state has its own requirement for when a location notice must be filed and recorded. The maximum period is 90 days from the staking of a claim or site on the ground. However, some states require earlier filings, such as 30 or 60 days from the date of location.

Location notices must contain the following basic information (43 CFR 3832, Subpart A, and 43 CFR 3833, Subpart A):

- The date of location on the ground
- The names and individual mailing addresses of the locator(s)
- The name of the claim or site
- The type of claim or site (lode or placer claim or mill site or tunnel site)
- The acreage claimed
- A description of the parcel on the ground

Local printing companies, office supply stores, stationery stores, appropriate state agencies, and BLM offices are some sources where state location notices and certificate forms might be obtained.

BLM: FLPMA (43 U.S.C. § 1744) requires claimants to file a copy of the official record of notice or

certificate of location with the BLM within 90 days after the date of location. Claimants must record any amendments (changes) in claim boundaries and any changes in ownership with the BLM. Claimants are also required to submit a map of the claim or site boundaries. Other documents filed under state law must also accompany the copy of the official record filed with the BLM. Even if state law does not require recording, claimants must still file the proper documents with the BLM. Federal recording regulations in 43 CFR 3833 specify the information required. These requirements may also be obtained from BLM state or field offices. A nonrefundable processing fee is required to record each new location, along with a location fee and initial maintenance fee. These fees are due at the time of recording. See www.blm.gov/miningclaimsfees for the schedule of fees. FLPMA requires a finding of abandonment if claimants fail to record with the BLM, county, or borough within the prescribed 90-day period. A separate location notice must be used for each mining claim, mill, or tunnel site.

Amendments and Transfers of Interest: Legal interest in a properly recorded mining claim or site may be conveyed in its entirety or in part. Generally, a quitclaim deed or other type of recordable conveyance document (this is governed by state law) is needed for this transfer of legal interest (43 CFR 3833, Subpart C). An amended location notice is necessary to show changes in the description of a claim or site but cannot be used for a transfer of ownership (43 CFR 3833, Subpart B). Transfer and amendment documents must be filed with the proper county and BLM state office. Amendment documents must be filed with the proper BLM state office within 90 days after the amendment is recorded with the county office. The BLM requires a nonrefundable processing fee to file amendments and transfers of interest for each mining claim or site. See www.blm.gov/miningclaimsfees for the schedule of fees. Failure to file a transfer of interest will result in the BLM only recognizing the

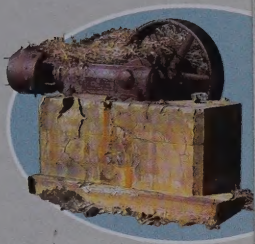
last owner of record as the responsible party for maintaining the mining claim or site. No notification of any action or contest initiated by the United States will be served on the new owners until the transfer of interest is filed with the BLM. Failure to file the transfer of interest provides no legal defense against failure to be properly served.

Abandonment or Relinquishment: If claimants abandon a mining claim or site or relinquish it to the Federal Government, they should file a notice with the proper county or borough office and the BLM state office. No particular form is required; a letter is acceptable. Be sure to include the claim or site name and the BLM serial number. There is no fee to file these documents.

THE PROPER BLM STATE OFFICE IS THE ONLY OFFICIAL FILING OFFICE FOR THE FEDERAL GOVERNMENT. The only exception is the BLM district office in Fairbanks, Alaska, which is also a filing office.



Maintenance of a Mining Claim or Site



If claimants have a legal interest in 10 or fewer mining claims nationwide and also meet certain other requirements, they have the option to perform assessment work and file evidence of the assessment work as described in the next section (43 CFR 3835). All other claimants must pay the BLM an annual maintenance fee per claim or site. Claimants must either pay the required fees or, if qualified, file for a waiver from payment of fees on or before September 1 of each year. Failure to pay the fee or file a waiver request by September 1 results in the claim or site becoming forfeited by operation of law (43 CFR 3834, 3835, and 3836).

If claimants have received the first half of the mineral entry final certificate for a mineral patent application, they are exempted from payment of fees or performance of assessment work (43 CFR 3835). This requirement is reinstated upon cancellation of the final certificate by the BLM or upon withdrawal of the application.

Annual Assessment Work

If claimants have an interest in 10 or fewer claims nationwide, they may elect to request a fee waiver from payment of the maintenance fee. If claimants are granted a fee waiver, they must perform annual labor (assessment work) or make improvements worth at least \$100 each year for each mining claim held. Assessment work is work or labor that a claimant performs that develops the claim for production (43 CFR 3836). Geological, geophysical, and geochemical surveys may qualify as assessment work for a limited period. Use of these surveys requires the filing of a detailed report, including basic findings.

Most state laws require the annual filing of an affidavit of assessment work with the proper county or borough, if the claimant performed the work. FLPMA requires the filing of an affidavit of annual assessment work with both the local county or borough office and the proper BLM state office if the claimant elected to request a waiver from payment of the maintenance fees. The affidavit or proof of labor must be filed on or before December 30 following the filing of a waiver in the proper BLM state office and in the county or borough recorder's office.

There is no requirement for assessment work for owners of mill or tunnel sites. If covered by a waiver, a claimant must file a notice of intention to hold the site(s) with the BLM. If not covered by a waiver, a claimant must pay the maintenance fee. For mill sites and tunnel sites, the need to file with the county or borough is controlled by state law.

Performance of assessment work must be within a certain period, referred to as the assessment year. The assessment year begins at 12:01 a.m. each September 1 and ends at midnight August 31 the next year (43 CFR 3836). Assessment work is not required to be performed during the first assessment year in which a claim is located.

A "notice of intention to hold" a mining claim or site is a letter or notice signed by the claimant or their agent. It satisfies the recording requirement in those circumstances in which an affidavit of labor cannot be filed, but an annual statement is required under state or federal law. The statement must include the name and BLM serial number assigned to each claim or site and any change in mailing address of the claimant(s).

The BLM may grant a "temporary deferment of assessment work" to owners of 10 claims or less under certain conditions (43 CFR 3836, Subpart B) that restricts or denies legal access to a mining claim (e.g., a

landowner, including the BLM, refuses to grant access; or some other legal impediment prevents access).

There is no particular form for a petition for deferment of assessment work. The petition can simply be a letter to the BLM signed by at least one of the owners of the claim and must fully explain the legal obstacles preventing access and the actions that have been taken to obtain access. The petition must include the name(s) and BLM mining claim serial number(s) and the assessment year to be deferred. A copy of the notice to the public recorded with the county or borough must accompany the petition. A nonrefundable processing fee must accompany the petition for deferment of assessment work. See www.blm.gov/miningclaimsfees for a schedule of fees.

A deferment may not exceed one assessment year but may be renewed for one additional year upon request and upon approval by the BLM if the legal impediment still exists. A notice of intent to hold must be filed with the BLM and the county or borough by December 30, which refers back to the granted deferment by the BLM serial number and date granted. When the deferment expires, all back assessment work or fees are due.

County: Each state has its own deadline for filing an affidavit of assessment work or notice of intent to hold. Most states require filing within 30 to 90 days after the end of the assessment year (September 1). Therefore, it is important for claimants to check the requirements for filing periods in the state where the claims are located.

BLM: File a copy of any of the previously mentioned documents that you record or will record with the county or borough with the BLM as well. Even if a state does not have a filing requirement, claimants must still file with the BLM. The deadline for filing with the BLM is on or before December 30.

A nonrefundable processing fee for each mining claim and site must accompany the affidavit or notice. See www.blm.gov/miningclaimsfees for a schedule of fees.

If claimants fail to file these documents within the prescribed period, the claim or site is forfeited and void by operation of law (43 CFR 3835, Subpart D).

THE PROPER BLM STATE OFFICE IS THE ONLY OFFICIAL FILING OFFICE FOR THE FEDERAL GOVERNMENT. The only exception is the BLM district office located in Fairbanks, Alaska, which is also a filing office.

Surface Management

Most federal agencies have regulations to protect the surface resources of federal lands during exploration and mining activities. After completion of exploration and mining activities, disturbed sites must be reclaimed; most state governments have mining and reclamation requirements that must be met. To avoid duplication of requirements, several states have entered into cooperative agreements with federal agencies. Check with federal and state agencies to determine the proper lead agency before submitting permit applications.

USFS: Exploration and mining activities are administered by the USFS by regulations of the Secretary of Agriculture contained in 36 CFR 228, Subpart A. These regulations require that if a proposed operation could likely cause “significant disturbance of surface resources” the operator must submit an operating plan. If wishing to prospect, explore, and develop claims or sites in national forests, contact the local district ranger about operating plans.

BLM: Exploration and mining activities on BLM-administered land are controlled by the regulations of the Secretary of the Interior contained in 43 CFR 3710, Subpart 3715, and 43 CFR 3800, Subpart 3809, and on wilderness study area lands in 43 CFR

3800, Subpart 3802. Claimants are required by these regulations to prevent unnecessary or undue degradation of the land. For activities other than casual use, claimants are required to submit either a notice or a plan of operations. A plan of operations is required where activities involve the surface disturbance of more than 5 acres. Notices are required for exploration activities disturbing 5 acres or less. Both plans of operations and notices must include a reclamation plan.

Casual-use activities are those that cause only negligible disturbance of public lands and resources. For example, activities that do not involve the use of earthmoving equipment or explosives may be considered casual use. For most types of casual-use activities, there is no requirement for notifying the BLM. However, State Directors may establish specific areas where the cumulative effects of casual use have resulted in, or are expected to result in, more than negligible disturbance, and the BLM must be contacted 15 calendar days before beginning activities to determine whether the individual or group must submit a notice or plan of operations (43 CFR 3809.31(a)). Contact the local BLM office for the boundaries of these State Director-designated areas.

Those involved in operations using a suction dredge must contact the BLM before beginning activities to determine whether such activities constitute casual use or if a notice or plan is required. If the proposed suction dredging is located within any lands or waters known to contain federally proposed or listed threatened or endangered species or their proposed or designated critical habitat, regardless of the level of disturbance, individuals must not begin operations until the BLM completes consultation required under the Endangered Species Act. If the state requires an authorization for suction dredging and the BLM and the state have an agreement under 43 CFR 3809.200 addressing suction dredging, then the individual need not submit to the BLM a notice or

plan of operations, unless otherwise required by the BLM/state agreement.

Claimants are required to reclaim any surface-disturbing activity, even if the claim or site is declared abandoned and void or forfeited by the BLM. Reclamation is also required if claimants relinquish the claim or site to the Federal Government. The BLM requires a reclamation bond or other financial security prior to approving a plan of operations or allowing operations under a notice to proceed. Surface management actions are processed at the local level. Therefore, claimants should contact the proper BLM field office for questions concerning plans of operation.

States: Be aware that many states have their own mining and reclamation laws. Many also have their own environmental laws to regulate air, water pollution, and use of hazardous materials. Some states, such as Alaska, California, and Oregon, require a permit for use of suction dredges. Similarly, construction activities usually require meeting the standards of a county code, as well as state public health and safety standards. Some states have entered into a memorandum of understanding or a cooperative agreement with the BLM and the USFS. These agreements reduce duplication by the operator and federal and state agencies in enforcing rules. For these reasons, claimants should inquire about state and local requirements before mining on public lands and National Forest System lands.

The Federal Government maintains the right to manage the surface and surface resources on mining claims and sites located under the Mining Law. This includes the use of the area for public recreational and resource management purposes that do not materially interfere with an ongoing mining activity.

The public has the conditional right to cross mining claims or sites for recreational and other purposes and to access federal lands beyond the claim boundaries.

The right of access to a mining claim or site across federal lands does not mean that one has a right to cause unnecessary or undue degradation of the surface resources. Individuals are liable if found responsible for unnecessary loss of or damage to property of the United States.

Claimants may not construct permanent or mobile structures or store equipment without the prior approval of an authorized federal official. Intermittent or casual mineral exploration and development do not normally justify the use of such structures (43 CFR 3710, Subpart 3715).

Mining claims and sites located on lands after the effective date of a withdrawal are null and void from the beginning. No rights are obtained by claims or sites declared null and void by the BLM. However, a claim or site located before a withdrawal is considered a potential valid existing right. To have valid existing rights in this situation, a valuable mineral deposit must have been discovered before the date of withdrawal. Individuals who disturb resources after the effective date of withdrawal and who do not have valid existing rights may be considered in trespass and can be held liable for trespass damages. In addition, trespassers may be fined and sentenced to a term in jail.



Mineral Patents

NOTE: Since October 1, 1994, the BLM has been prohibited by acts of Congress from accepting any new mineral patent applications. The moratorium has been renewed annually through the various Interior Appropriations Acts, and the duration of this moratorium is unknown.



A patented mining claim or mill site is one for which the Federal Government has conveyed title to the claimant, making it private land. Individuals may mine and remove minerals from a mining claim without a mineral patent. However, a mineral patent gives exclusive title to the locatable minerals and, in most cases, also grants title to the surface. Requirements for filing mineral patent applications may be found in 43 CFR 3860 and at BLM state offices. Mineral patents can be issued for lode claims, placer claims, and mill sites but not for tunnel sites.

Applications for mineral patents (43 CFR 3860, Subparts 3861-64) consist of statements, documentation, and proofs relative to each individual claim or site and require claimants to demonstrate the existence of a valuable mineral deposit that satisfies the prudent man rule and test of marketability or use and occupancy. In addition, claimants must:

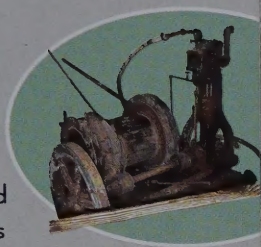
- Have the claim surveyed (if it is a lode claim, a claim described by a metes and bounds survey, or a claim situated on unsurveyed land) by a U.S. deputy mineral surveyor selected from a roster maintained by the BLM state office (43 CFR 3860, Subpart 3861)
- Pay the BLM a nonrefundable processing fee (see 43 CFR 3000.12(a) for the current fee schedule)
- Show the BLM a complete title to the mining claim or mill site

- Post a “notice of intent to patent” on the claim or site and publish it as a legal notice in a local newspaper selected by the BLM for a 60-day period (43 CFR 3860, Subpart 3862)
- Show the BLM proof that not less than \$500 worth of development work or improvements have been made to benefit each claim
- Show the BLM proof of discovery of a valuable mineral deposit for mining claims and proper use or occupancy for mill sites

A BLM land law examiner will adjudicate the application, and a federally certified mineral examiner will conduct an on-the-ground examination of the mining claim(s) to verify that a discovery of a valuable mineral has been made. For mill sites, an examination is made to verify proper use or occupancy and the mineral character of the land. This is documented in a formal mineral report. If all the requirements of the mining law and regulations have been satisfied, claimants may purchase the claim(s) or site(s) at the following rates: lode claims at \$5 per acre, placer claims at \$2.50 per acre, custom mill sites and mill sites associated with lode claims at \$5 per acre, and mill sites associated with placer claims at \$2.50 per acre. A mineral patent must then be issued, as required by the mining law.

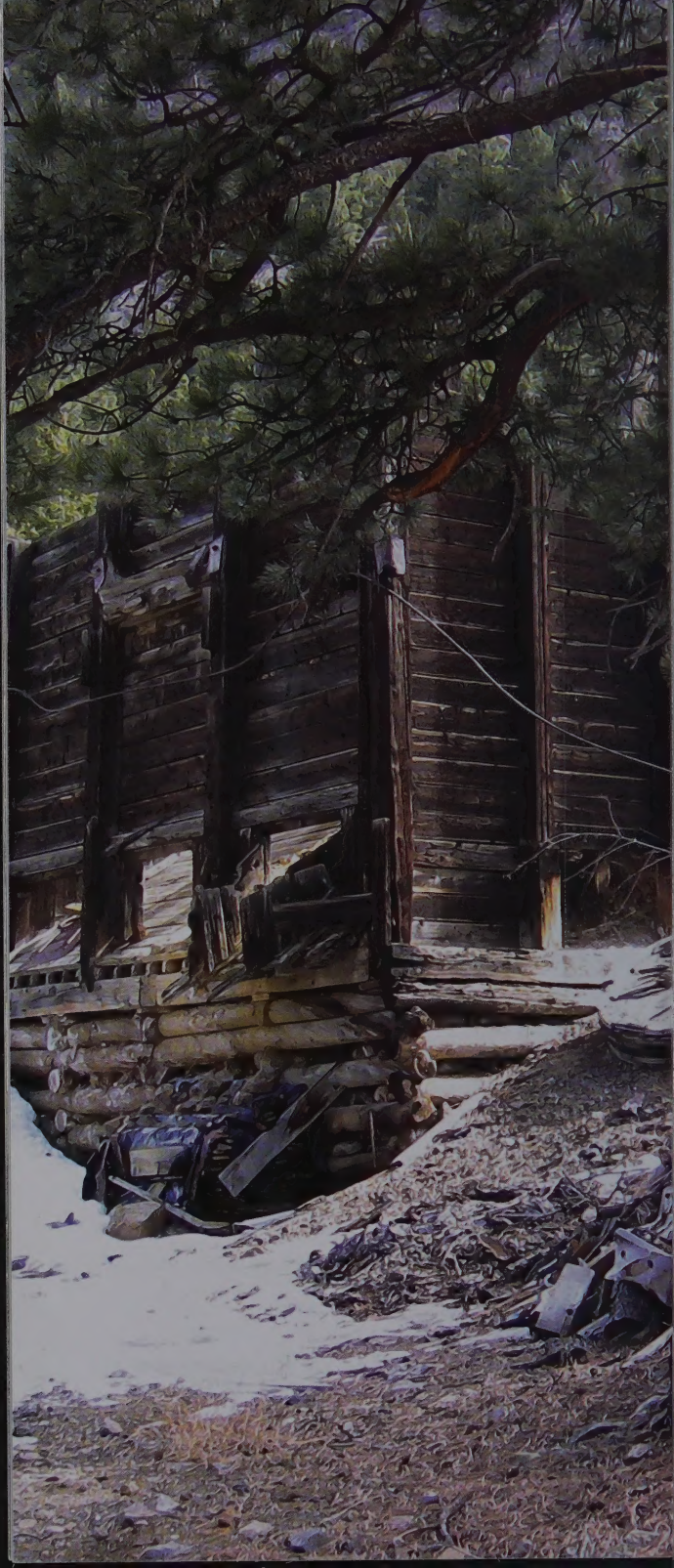
THE PROPER BLM STATE OFFICE IS THE ONLY OFFICIAL FILING OFFICE FOR THE FEDERAL GOVERNMENT. The only exception is the BLM district office in Fairbanks, Alaska, which is also a filing office.

BLM Land and Mineral Records



BLM state offices are the only place where the complete set of land and mineral records for federal lands in a particular state, including mining claim records, are filed and available for public inspection. The BLM also maintains its files in electronic format in a system known as the Legacy Rehost 2000 System (LR2000) and is accessible online at <https://www.blm.gov/lr2000/>. This system may be accessed through terminals located in BLM information access centers. In Alaska, the Alaska Case Retrieval Enterprise System maintains the electronic record and is accessible online at https://sdms.ak.blm.gov/acres/acres_menu. It is also available in the information access centers in the Alaska State Office in Anchorage and the BLM district office in Fairbanks. The USFS does not keep the official land and mineral records for the national forests; they are deposited with the proper BLM state office.

Federal land records include land status plats (i.e., master title plats or MTPs), land survey notes and maps, mineral survey notes and maps, historical indexes, and the BLM Control Document Index. The Control Document Index is a microfilm copy of all grants, deeds, patents, rights-of-way, and other official actions that occurred on the lands under the administration of that BLM state office. It is organized by legal land description only. The BLM (except for Alaska) publishes a series of multicolored surface and mineral management maps, which depict the ownership pattern of federal lands and may be purchased at most BLM offices.



More Information



Sources of Information

BLM: The BLM has been delegated by the Secretary of the Interior with the primary responsibility for administering the laws and regulations regarding the disposal of all minerals from all federally owned lands. The BLM's statutory authority here is derived from the Mining Law of 1872, as amended (30 U.S.C. §§ 22 *et seq.*), the original public land authority in 43 U.S.C. Chapters 2 and 15 and 43 U.S.C. §§ 1201 and 1457, and FLPMA (43 U.S.C. 1701 *et seq.*). These statutes, together with the implementing regulations (43 CFR Group 3700 and Part 3800) and numerous judicial and administrative decisions that have interpreted them, make up the body of the mining law system. These laws may be examined in most BLM state offices, online, or in most public libraries. For information concerning BLM regulations and public lands open to mining in specific areas, contact the proper BLM state or local office. BLM state office locations are listed in the back of this pamphlet.

USFS: For information regarding federal land within the National Forest System and USFS surface management regulations (36 CFR 228, Subpart A), contact the appropriate USFS regional or local ranger district office. USFS regional office locations are listed in the back of this pamphlet.

State: Information on state and local requirements and cooperative agreements between the state, BLM, and USFS may be obtained at local BLM and USFS offices. Otherwise, contact the appropriate state or local agency.

Geology and Minerals, Topographic Maps, and Mining Technology

U.S. Geological Survey (USGS): The USGS publishes many topographic maps, geologic maps, and reports. To learn how to obtain these maps and related materials, call 1-888-ASK-USGS (275-8747). In addition, USGS publications can be obtained online at:

<https://answers.usgs.gov>

and

<https://store.usgs.gov>

State: Information concerning state mining laws and regulations that supplement the Mining Law of 1872, as amended, plus information concerning the geology and minerals of specific areas in a state, can be obtained from state geologists, geological surveys, or mining departments.

Bureau of Land Management State Offices

Alaska

222 W. 7th Ave. #13
Anchorage, AK 99513
(907) 271-5960

Arizona

One North Central Ave.
Suite 800
Phoenix, AZ 85004-4427
(602) 417-9200

California

2800 Cottage Way
Suite W-1623
Sacramento, CA 95825
(916) 978-4400

Colorado

2850 Youngfield St.
Lakewood, CO 80215
(303) 239-3600

Eastern States

20 M St. SE
Suite 950
Washington, DC 20003
(202) 912-7700

Idaho

1387 S. Vinnell Way
Boise, ID 83709
(208) 373-4000

Montana/Dakotas

5001 Southgate Dr.
Billings, MT 59101
(406) 896-5000

Nevada

1340 Financial Blvd.
Reno, NV 89502
(775) 861-6500

New Mexico

301 Dinosaur Trail
Santa Fe, NM 87508
(505) 954-2000

Oregon/Washington

1220 S.W. 3rd Ave.
Portland, OR 97204
(503) 808-6001

Utah

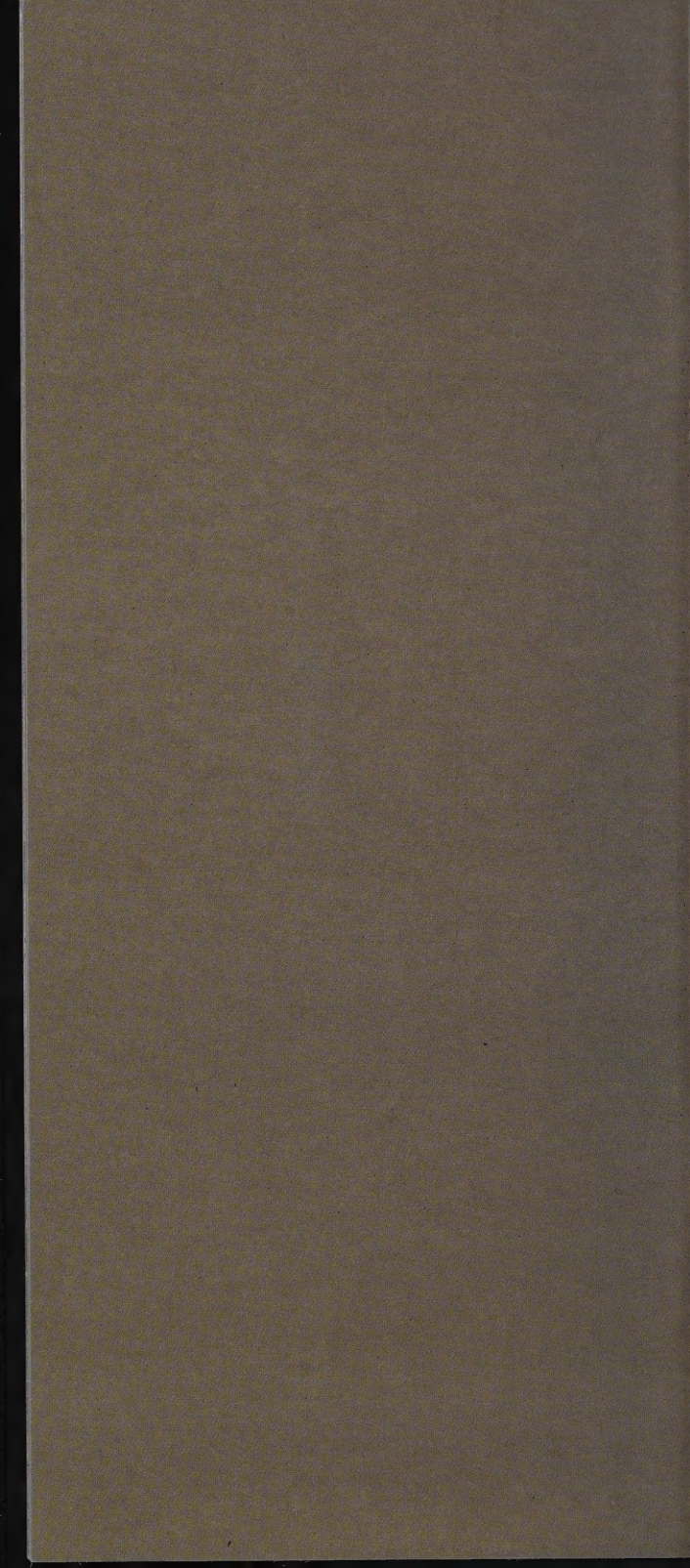
440 West 200 South
Suite 500
Salt Lake City, UT 84101
(801) 539-4001

Wyoming

5353 Yellowstone Rd.
Cheyenne, WY 82009
(307) 775-6256

National Office

1849 C St. NW
Room 5665
Washington, DC 20240
(202) 208-3801



U.S. Forest Service Regional Offices

Northern Region

(Region 1)

26 Fort Missoula Road
Missoula, MT 59804
(406) 329-3511

Rocky Mountain Region

(Region 2)

1617 Cole Blvd., Bldg. 17
Lakewood, CO 80401
(303) 275-5350

Southwestern Region

(Region 3)

333 Broadway SE
Albuquerque, NM 87102
(505) 842-3292

Intermountain Region

(Region 4)

Federal Building
324 25th St.
Ogden, UT 84401
(801) 625-5605

Pacific Southwest Region

(Region 5)

1323 Club Dr.
Vallejo, CA 94592
(707) 562-8737

Pacific Northwest Region

(Region 6)

1220 SW 3rd Ave.
Portland, OR 97204
(503) 808-2468

Southern Region

(Region 8)

1720 Peachtree Rd., NW
Atlanta, GA 30309
(404) 347-4177

Eastern Region (Region 9)

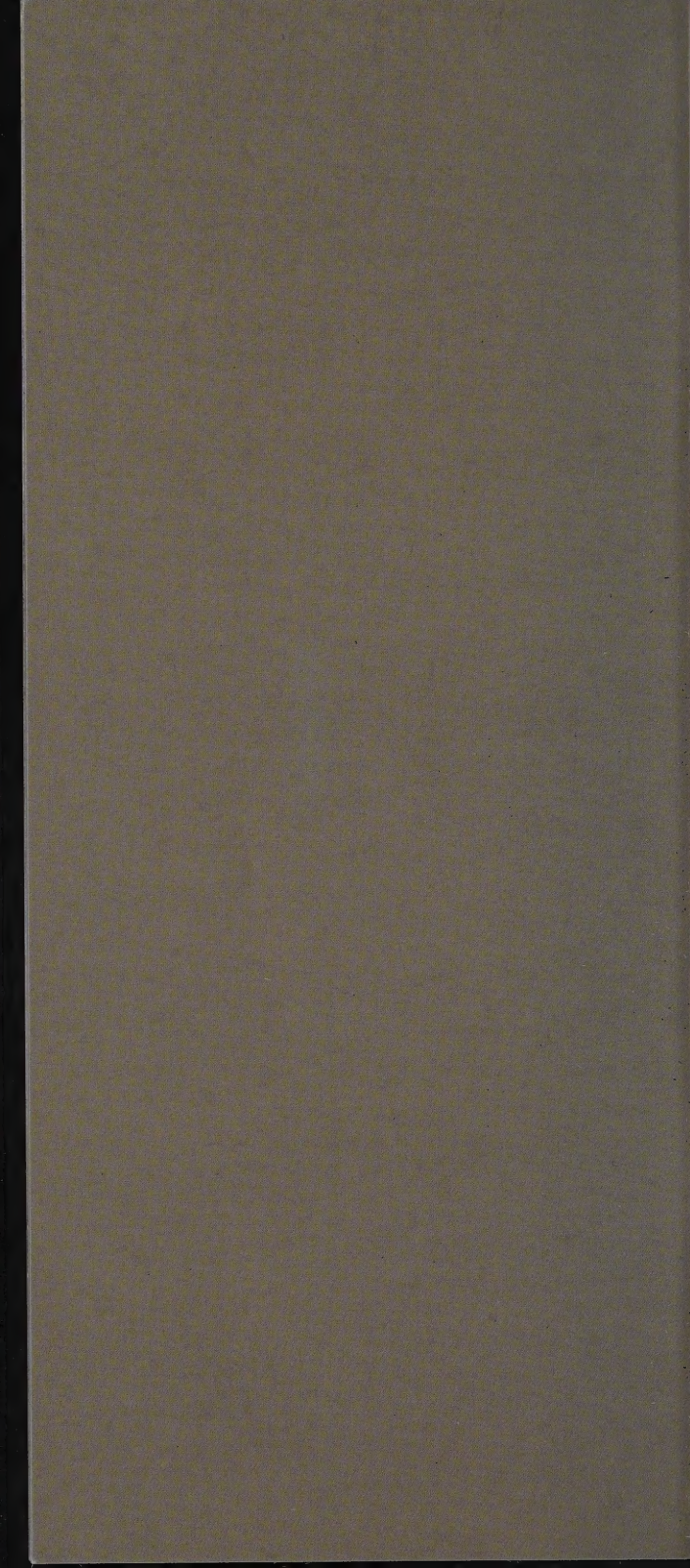
626 East Wisconsin Ave.
Milwaukee, WI 53202
(414) 297-3600

Alaska Region (Region 10)

P.O. Box 21628
Juneau, AK 99802-1628
(907) 586-8806

National Office

1400 Independence Ave. SW
Washington, DC 20250-1111
(800) 832-1355



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